

REMARKS

Claims 33-54 are now pending in the application. Claims 1-32 have been previously cancelled and claims 33-44 have been previously withdrawn from consideration. The Examiner is respectfully requested to reconsider and withdraw the rejections in view of the amendments and remarks contained herein.

REJECTION UNDER 35 U.S.C. §103

Claims 45-48 and 50-54 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Slivka (U.S. Pre-Grant Publication No. 2003/0225600; hereinafter "Slivka") in view of Yu (U.S. Pat. No. 6,314,361; hereinafter "Yu") in further view of Yu et al. (U.S. Pat. No. 6,408,276; hereinafter "Yu II") and Official Notice. This rejection is respectfully traversed.

Initially it will be noted that each of the independent claims has been amended to more positively recite that the crew engine is able to obtain information concerning constraints for the crew members that *would legally prevent any one or more of the crew members from being re-scheduled to work in connection with the new itinerary*. For the Examiner's convenience amended independent claim 45 is presented below in full:

45. (Currently Amended) *A method for rescheduling passengers scheduled for travel on at least one affected mobile platform when a scheduling disruption occurs, the method comprising:*

providing scheduling information in a computer readable medium for the at least one affected mobile platform and for other mobile platforms to a computer system that implements an integration engine;

using the integration engine and the scheduling information to generate a disruption specification based upon an event, the

disruption specification including data identifying passengers and crew members needing to be rescheduled from travel on an initial mobile platform, and penalty cost information relating to available actions that may be taken to recover from the disruption and to rebook passengers on two or more alternative itineraries to identify;

simultaneously in parallel, using a processing subsystem to implement:

a fleet engine to obtain information from the integration engine regarding the disruption specification, and to generate information relating to alternative mobile platforms that are available for use in connection with a new itinerary;

a crew engine to obtain information from the integration engine regarding the disruption specification, and generate information relating to constraints for crew members scheduled to travel on the initial mobile platform, wherein the constraints for the crew members would legally prevent any one or more of the crew members from being re-scheduled to work in connection with the new itinerary;

the crew engine and the fleet engine each eliminating a subset of initial potential recovery solutions that do not meet ~~any~~ one of feasibility and [[or]] legality consideration, and to generate a plurality of possible recovery solutions;

using a passenger engine to receive the possible recovery solutions and to generate information relating to constraints affecting passengers scheduled for travel on the initial mobile platform; and

further using the passenger engine to generate one of an overall solution or a plurality of ranked rescheduling solutions for a group comprising one of the passengers or the crew members.

Somewhat similar amendments have been made to independent claims 52 and 53. Support for these amendments may be found at least at paragraphs 0032, 0037, 0039 and 0041.

It is respectfully submitted that the Examiner is reading far too much into what Slivka, Yu and Yu II disclose. Slivka has been discussed in detail in more than one previous response. However, it bears repeating that Slivka simply does not address, even remotely, the issue of integrating crew member constraints into a rescheduling solution for a mobile platform, let alone integrating crew member constraints that involve

legal limitations that control crew members being able to work on a mobile platform operating in connection with a new itinerary. This is one important aspect that separates the presently claimed subject matter from Slivka: *Slivka is basically a system that a travel agency or airline would use to simply determine alternative itineraries for paying passengers.* Moreover, there is nothing in Slivka that would suggest modifying its teachings to also consider the legal restrictions (i.e., work rules imposed by a governmental agency such as the FAA) on work by the crew members, let alone how such considerations would be integrated into an overall rescheduling solution.

To show that crew member work rules may be integrated into a rescheduling solution the Examiner has cited Yu (i.e., the 'Yu '361 reference), and particularly column 4, lines 33-43 of this reference. But this section of Yu says absolutely nothing about considering ***legal constraints for crew members when determining rescheduled flights***. The closest Yu comes to this is its discussion of its "Crew Optimization Engine 5", which communicates with the Aircraft Optimization Engine 1, to whether the optimal flights solutions are "efficiently supported by flight and service crews". Further discussion on this point occurs in column 4, lines 345-50 of Yu, but again, there is simply nothing that would suggest that the Crew Optimization Engine 5 is somehow obtaining information from communicating with any other type of subsystem that could be viewed as an "integration engine" for the purpose of determining legal constraints on the ability of the crew members to continue working on any one of the new, alternative itineraries that may be created by the system. The Examiner is also encouraged to consider that Yu cites a litany of considerations at these portions of text, and if the legality of constraints on crew members was one of them that would have been readily

understood/considered by one of ordinary skill in this art, then presumably this consideration (which is obviously a highly important consideration) would have been explicitly mentioned in these portions of Yu. And still further, there is certainly nothing in Slivka and Yu to suggest using each of a "passenger engine", a "crew engine" and a "fleet engine", that operate in parallel to collectively look at a wide ranging number of factors pertaining to both crew and non-crew individuals, as well as factors relating to the mobile platform itself, to determine an acceptable list of alternative rescheduling solutions.

Yu II (the Yu '276 reference) has been cited in previous Office Actions as well, but this reference does not appear to be concerned whatsoever with rescheduling passengers (i.e., non-crew member individuals) that may have differing connections, differing ultimate destinations, different travel needs (such as handicapped passengers). And Yu II certainly does not go so far as to suggest how its real time crew optimization engine could be integrated with some other component that looks at both the legality constraints imposed on crew members work schedules and requirements of non-crew passengers to generate a set of alternative rescheduling solutions.

Claim 49 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Slivka in view of Yu in further view of Yu II and Official Notice. In view of the amendments and remarks presented herein, it is believed that this rejection has been rendered moot.

References Have Been Combined in Hindsight

The Examiner will appreciate that it is well established by the CAFC that there must be some teaching, motivation or desirability to combine the prior art references. See e.g., C.R. Bard, Inc. v. M3 Sys., Inc., 157 F.3d 1340, 1352 (Fed. Cir. 1998). A general relationship between the fields of the prior art references is not sufficient to establish the required "suggestion" or "motivation". Interactive Techs., Inc. v. Pittway Corp., Civ. App. No. 98-1464, slip op. at 13 (Fed. Cir. June 1, 1999) (unpublished), cert. denied, 528 U.S. 528 U.S. 1046 (1999).

Furthermore, the Federal Circuit has stated:

The genius of invention is often a combination of known elements which in hindsight seems preordained. To prevent hindsight invalidation of patent claims, the law requires some "teaching, suggestion or reason" to combine the cited references.

McGinley v. Franklin Sports Inc., 262 F.3d 1339, 60 USPQ2d 1001, 1008 (Fed. Cir. 2001) (citing Gambro Lundia AB v. Baxter Healthcare Corp., 110 F.3d 1573, 1579, 42 USPQ 2d 1378, 1383 (Fed. Cir. 1997)).

The mere fact that the prior art may be modified in the manner suggested by the Examiner does not make the modification obvious unless the prior art suggested the desirability of the modification. In re Fritch, 972 F.2d 1260, 23 USPQ2d 1780, 1784 (Fed. Cir. 1992). In In re Fritch, the CAFC stated:

It is impermissible to use the claimed invention as an instruction manual or "template" to piece together the teachings of the prior art so that the claimed invention is rendered obvious. This court has previously stated that "[o]ne cannot use hindsight reconstruction to pick and choose among isolated disclosure disclosures in the prior art to deprecate the claimed invention.

Id. at 23 USPQ2d 1784.

In this example, the Examiner has failed to explain the specific understanding or principle within the knowledge of a skilled artisan that would have motivated one with no knowledge of the presently claimed invention to make the combination asserted by the Examiner. Accordingly, it is respectfully maintained that the combination of references applied by the Examiner has been made in hindsight using the pending claims as a road map.

CONCLUSION

It is believed that all of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicant therefore respectfully requests that the Examiner reconsider and withdraw all presently outstanding rejections. It is believed that a full and complete response has been made to the outstanding Office Action and the present application is in condition for allowance. Thus, prompt and favorable consideration of this amendment is respectfully requested. If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (248) 641-1600.

Respectfully submitted,



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